 Regulatory Policy Committee	Opinion	
Impact Assessment (IA)	Zero hours contracts in the UK	
Lead Department/Agency	Department for Business, Innovation and Skills	
Stage	Consultation	
IA Number	BISLMD002	
Origin	Domestic	
Expected date of implementation (and SNR number)	2014 (SNR8)	
Date submitted to RPC	19/12/2013	
RPC opinion date and reference	23/1/2014	RPC13-BIS-1965
Overall assessment	AMBER	
<p>RPC comments</p> <p>The IA is fit for purpose. The IA presents a number of options, including some non-regulatory options. The IA makes it clear that all of these options are being considered. This will help facilitate a meaningful consultation.</p> <p>There are, however, some areas where the IA should be strengthened. To help inform consultees and decision-makers, and ensure that the equivalent annual net cost to business figure is correct, the IA should explain how employers that use these contracts are distributed between the public, private and civil society sectors. Also, the IA should discuss the issue of market power or explain why it is not a feature of labour markets in which zero hours contracts are used.</p> <p>The Committee notes that, contrary to the better regulation framework put in place by the Government, the IA was published before the RPC had a chance to consider it.</p>		
<p>Background (extracted from IA)</p> <p>What is the problem under consideration? Why is government intervention necessary?</p> <p><i>While zero hours contracts (ZHCs) provide benefits to both employers and employees, there is some evidence of actual, or perceived, abuse in some cases, causing detriment to individuals. Abuse of ZHCs can also have a negative impact on UK businesses generally if it leads to a potentially efficient form of contracting being under-used. Government intervention would be justified if it could cost-effectively rectify market failures, or address equity, or fairness, concerns in the use of ZHCs. There is currently no preferred option for intervention.</i></p> <p>What are the policy objectives and the intended effects?</p> <p><i>A review of ZHCs found that they have a role to play in a modern and flexible labour market, and can provide benefits to both employers and individuals alike. But concerns have been raised about possible abuses and unfair practices. The policy objectives are to address any market failures in the use of ZHCs in the UK, and to address concerns of equity, or fairness, in their use. The intended effects would be to make the UK labour market operate more fairly, and more efficiently, for the benefit of both employers and individuals.</i></p>		

Options

A range of policy options are being considered. These include:

- *'Do nothing' which would be justified if the additional costs of further intervention exceeded the additional benefits.*
- *A non-regulatory option which includes the provision of greater levels of information, guidance, and sign-posting - either by government or employers - to enable more informed choices to be made in the use of zero hours contracts.*
- *A regulatory option involving potential tightening of regulation around zero hours contracts and/or the introduction of government sponsored, or issued, statutory guidance in relation to their use.*

Identification of costs and benefits, and the impacts on business, civil society organisations, the public sector and individuals, and reflection of these in the choice of options

The IA presents a number of options, including some non-regulatory options. There is no single preferred option at this stage. This will help facilitate a meaningful consultation. There are some areas, however, where the IA should be strengthened.

When detailing the rationale for intervention, the IA identifies two market failures; asymmetric information and negative externalities. While these are both market failures relating to zero hours contracts, an additional reason for government intervention could be the market power of employers relative to employees in certain types of labour markets. If employers did not have market power, then employees – if they wished - would presumably, for example, be able to negotiate a move to guaranteed hours contracts without government intervention. This might also explain why employees with zero hours contracts accept clauses like exclusivity which disadvantage them. The IA should discuss the issue of market power or explain why it is not a feature of labour markets in which zero hours contracts are used.

The IA explains that universities and the care sector are two of the main users of zero hours contracts, but does not differentiate between private and public sector providers in these sectors. To help inform consultees and decision-makers, and ensure that the equivalent annual net cost to business figure is correct, the IA should explain how employers that use these contracts are distributed between the public, private and civil society sectors.

There is a large degree of uncertainty regarding the impact of the policy options presented in the IA, with wide ranges presented for key assumptions. This is reasonable given the stage of policy development, but the Department will need to develop robust estimates of the impacts of the proposals. The consultation process, and subsequent analysis, will need to be used to ensure that there is sufficiently robust evidence to support the decision-making process at the final stage.

Comments on the robustness of the small & micro-business assessment (SaMBA)

The proposals regulate business and are intended to come into force after 1 April 2014 and, therefore, the SaMBA is applicable. At this stage, the default policy of small business exemption has not been adopted. The SaMBA says only that “...if evidence from consultation demonstrates that there will be disproportionate impacts on small and micro-businesses, then any regulatory proposals adopted will consider how to mitigate these impacts. Such mitigation, which could include some form of exemption, or extended transition period, or variation requirements, will be assessed in any final IA produced.”

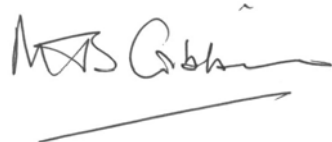
While this is sufficient at this stage of policy development, the Department will need to use the consultation to gain more information on the likely impact that each of the options would have on small and micro-businesses. Following consultation, the IA, supported with appropriate analysis, will need to explain how, and the extent to which, the burdens of the preferred option(s) on small and micro-businesses will be mitigated, if they are not exempted.

Comments on the robustness of the OITO assessment

As the IA considers a number of options, including some non-regulatory options, it does not include a One-in, Two-out (OITO) assessment at this stage. Some of the options could impose a direct net cost to business (an IN) and some could be zero net cost; both would be in scope of OITO.

The approach taken is reasonable in the circumstances. An assessment of the impact on business, including an equivalent annual net cost to business (EANCB) figure, along with supporting evidence, will have to be submitted for validation at final stage.

Signed



Michael Gibbons, Chairman